

# Office of the State Public Defender

## Administrative Policies

Subject: <b>Pre-Approval of Client Costs</b>	Policy No.: <b>125</b>
Title:	Pages: <b>11</b>
Section:	Last Review Date: <b>02-20-09</b>
Effective Date: <b>5-1-07</b>	Revision Date: <b>5-22-09</b>

### 1.0 POLICY

- 1.1 The Office of the State Public Defender (OPD) requires pre-approval of all client costs expected to exceed \$200 per task in all cases.
- 1.2 All cases involving salaried (FTE), contract and conflict attorneys, including appellate cases, are subject to this policy.

### 2.0 DEFINITIONS

- 2.1 Client costs, hereinafter called costs, shall be defined as all monies to be expended in the preparation, investigation and litigation of public defender cases.
- 2.2 A task shall be defined as work performed by a non-attorney in the preparation, investigation and litigation of a public defender case.

### 3.0 PROCEDURE

#### 3.1 All Costs Exceeding \$200

- 3.1.1 The pre-approval process for all costs expected to exceed \$200 per task shall commence with the completion of the appropriate Request for Pre-approval of Costs form by the attorney assigned to the case. There are separate forms and procedures for mental health and investigative services (see below), and for all other services (Attachment A).
- 3.1.2 Requests for pre-approval of costs that include travel must separate travel costs from the task costs. Any travel arrangement involving airline travel and/or overnight lodging will be arranged by the Central Office. The requesting attorney will contact the Central Office for travel arrangements not less than two weeks before the day of travel.
- 3.1.3 The pre-approval request form must be signed and dated by the requesting attorney and forwarded to one of the following persons for approval:
  - 3.1.3.1 For non-conflict cases assigned to an FTE or contract attorney, submit the request to the Regional Deputy Public Defender (RDPD) assigning the case; or
  - 3.1.3.2 For conflict cases, submit the request to the Training Coordinator; or
  - 3.1.3.3 For appellate cases, submit the request to the Chief Appellate Defender. Appellate transcript requests are exempt from this policy.
- 3.1.4 The RDPD, Training Coordinator or Chief Appellate Defender shall review the request and shall explore alternative, fiscally responsible options with the attorney before approving or denying said request by checking the appropriate box on the form and then signing and dating the same.

- 3.1.5** The RDPD will submit all requests to the Central Office for final approval. The Chief Public Defender will review FTE requests. The Contract Manager will review contract attorney requests.
- 3.1.6** The original form is to be retained by the person approving or denying the request and a copy thereof forwarded to the requesting attorney.

**3.2 Pre-approval of Costs for Mental Health Services**

- 3.2.1** The requesting attorney will consult with the OPD Mental Health Consultant regarding the proposed service prior to initiating the pre-approval request.
- 3.2.2** If the Mental Health Consultant concurs, the attorney will complete the Mental Health pre-approval form (Attachment B) and submit it to the appropriate person for approval, as per sections 3.1.2 through 3.1.5 above.

**3.3 Pre-approval of Costs for Investigative Services**

- 3.3.1** The requesting attorney will consult with the OPD Investigator Supervisor regarding the proposed service prior to initiating the pre-approval request.
- 3.3.2** If the Investigator Supervisor concurs, the attorney will complete the Investigator pre-approval form (Attachment C) and submit it to the appropriate person for approval, as per sections 3.1.2 through 3.1.5 above.

- 3.4** The requesting attorney is responsible for keeping the pre-approved costs within the pre-approved amount. He or she must be familiar with the task being provided and the cost of the task as funds are being expended. If costs are anticipated to exceed the pre-approved amount, the task must be resubmitted for approval of the new amount prior to incurring any costs on the appropriate Supplemental Request form (Attachments D-F).

- 3.5** Post-approval of costs will not be granted except in extraordinary circumstances.

- 3.6** The original pre-approval forms are to be used to track the pre-approved costs, and are to be attached to the claim form when they are forwarded to the Central Office for final payment. Tasks that are billed incrementally are to have a copy of the pre-approval attached with a notation indicating the remaining funds available.

- 3.7** Costs incurred without pre-approval will not be paid. Costs that exceed the pre-approved amount without a supplemental approval will not be paid.

**4.0 CLOSING**

Questions about this policy should be directed to OPD at the following address:

Office of the State Public Defender  
Administrative Service Division  
44 West Park  
Butte, MT 59701  
Phone 406-496-6080

**Attachment A**  
State of Montana  
Office of the State Public Defender  
**REQUEST FOR PRE-APPROVAL OF CLIENT COSTS**

All client costs (including travel) exceeding \$200 per task in each case must be pre-approved by submitting this request form to the appropriate person as follows:

- The Regional Deputy Public Defender in cases assigned to an FTE, or a non-conflict case assigned to a contract attorney
- The Conflict Manager in cases assigned to conflict attorneys (*Eric Olson, 610 N. Woody, Missoula MT 59802*)
- The Chief Appellate Defender in appellate cases (*Jim Wheelis, P.O. Box 200145, Helena MT 59620*)

\_\_\_\_\_  
Requesting Attorney's Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Case Name

\_\_\_\_\_  
OPD Case ID Number

\_\_\_\_\_  
Task Provider's Name

\_\_\_\_\_  
Region Case Originated

\_\_\_\_\_  
Requested Pre-Approval Amount for Task

\_\_\_\_\_  
Requested Pre-Approval Amount for Travel (time & miles)

*Note: travel reimbursement is paid at the **current state rate** for mileage, lodging and per diem.*

The requesting attorney is responsible for keeping the pre-approved costs within the pre-approved amount. If costs are anticipated to exceed the pre-approved amount, the task must be resubmitted for approval of a supplemental amount on a new form prior to incurring any additional costs. It is imperative for the requesting attorney to monitor costs expended to date so as not to delay the supplemental process.

Short Justification for Task and Cost: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Requesting Attorney Signature

\_\_\_\_\_  
Date

The Requesting Attorney must complete and forward this form to the appropriate person for approval (see above).

\_\_\_\_\_  
Authorized Signature

☐ Approve ☐ Deny

\_\_\_\_\_  
Date

**NOTE:** Regional Deputy Public Defenders must submit all requests to the Central Office for approval **regardless of the amount requested**. The Chief Public Defender will review FTE attorney requests. The Contract Manager will review contract attorney requests.

**For Central Office Use Only—Non-Conflict Requests**

☐ Approve ☐ Deny

\_\_\_\_\_  
Contract Manager/Chief Public Defender

\_\_\_\_\_  
Date

**Attachment B**  
State of Montana  
Office of the State Public Defender  
**REQUEST FOR PRE-APPROVAL OF CLIENT COSTS**  
**MENTAL HEALTH PROFESSIONAL**

All client costs exceeding \$200 per task in each case must be pre-approved by submitting this request form to the appropriate person as follows:

- The Regional Deputy Public Defender in cases assigned to an FTE, or a non-conflict case assigned to a contract attorney
- The Training Coordinator in cases assigned to conflict attorneys  
(Eric Olson, 610 N. Woody, Missoula MT 59802)

\_\_\_\_\_  
Requesting Attorney's Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Case Name

\_\_\_\_\_  
OPD Case Number

\_\_\_\_\_  
Task Provider's Name

\_\_\_\_\_  
Region Case Originated

\_\_\_\_\_  
Requested Pre-Approval Amount for Evaluation

\_\_\_\_\_  
Requested Pre-Approval Amount for Travel (time & miles)

*Note: travel reimbursement is paid at the **current state rate** for mileage, lodging and per diem.*

The requesting attorney is responsible for keeping costs within the pre-approved amount. If costs are anticipated to exceed the pre-approved amount, the task must be resubmitted for approval of a supplemental amount on a new form **prior to incurring any costs over the pre-approved amount**. It is imperative for the requesting attorney to monitor costs expended to date so as not to delay the supplemental process.

Per Protocol, type of MH Professional involvement requested:

☐ MH Professional Consultation

☐ Sentencing Options

☐ MH Professional Screening

☐ Fitness to Proceed

☐ MH Professional Evaluation (comprehensive evaluation)

☐ Sex Offender Evaluation

☐ Chemical Dependency Evaluation

☐ Testimony

Justification for task, referral questions and cost: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Next scheduled court appearance \_\_\_\_\_

Type and Estimated number of pages for Professional to review:

☐ Legal documents ( \_\_\_\_\_ pages)

☐ Medical record ( \_\_\_\_\_ pages)

☐ Other records requested and have not arrived to date

I. Have you consulted with the OPD Mental Health Consultant regarding this request?  
(Required for all evaluations except sex offender evaluations)

☐ Yes      Date and time of consultation \_\_\_\_\_

☐ OPD MH Consultant has reviewed and concurs with request  
(Attach documentation or signature)

II. Have you completed and attached the MH Referral Question Checklist?

☐ Yes

\_\_\_\_\_  
Requesting Attorney Signature

\_\_\_\_\_  
Date

The Requesting Attorney must complete and forward this form to the appropriate person for approval (see page 1).

\_\_\_\_\_  
Authorized Signature    ☐ Approve    ☐ Deny

\_\_\_\_\_  
Date

Regional Deputy Public Defenders: **All requests, regardless of the amount requested, are to be submitted to the Central Office for approval.** The Chief Public Defender will review FTE attorney requests. The Contract Manager will review contract attorney requests.

**For Central Office Use Only—Non-Conflict Requests**

☐ Approve    ☐ Deny

\_\_\_\_\_  
Contract Manager/Chief Public Defender

\_\_\_\_\_  
Date

**Notes to mental health professional:** (1) A *Memorandum of Understanding, Mental Health Professional* must be on file with OPD prior to commencing services. (2) **Immediately contact the referring attorney at the first indication that additional time is necessary to answer the referral question!** Supplemental approval must be provided for payment over and above the initial pre-approved amount. Justification must be provided regarding the specifics of what additional time spent on the case will entail.

**Attachment C**  
State of Montana  
Office of the State Public Defender  
**REQUEST FOR PRE-APPROVAL OF CLIENT COSTS**  
**INVESTIGATOR**

All client costs exceeding \$200 per task in each case must be pre-approved by submitting this request form to the appropriate person as follows:

- The Regional Deputy Public Defender in cases assigned to an FTE, or a non-conflict case assigned to a contract attorney
- The Training Coordinator in cases assigned to conflict attorneys (*Eric Olson, 610 N. Woody, Missoula MT 59802*)

\_\_\_\_\_  
Requesting Attorney's Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Case Name

\_\_\_\_\_  
OPD Case ID Number

\_\_\_\_\_  
Task Provider's Name

\_\_\_\_\_  
Region Case Originated

\_\_\_\_\_  
Requested Pre-Approval Amount for Task

\_\_\_\_\_  
Requested Pre-Approval Amount for Travel (time & miles)

*Note: travel reimbursement is paid at the **current state rate** for mileage, lodging and per diem.*

The requesting attorney is responsible for keeping the pre-approved costs within the pre-approved amount. If costs are anticipated to exceed the pre-approved amount, the task must be resubmitted for approval of a supplemental amount on a new form prior to incurring any additional costs. It is imperative for the requesting attorney to monitor costs expended to date so as not to delay the supplemental process.

Justification for Task: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Next scheduled court appearance \_\_\_\_\_

I. Have you consulted with the OPD Investigator Supervisor regarding this request?

☐ Yes Date and time of consultation \_\_\_\_\_

☐ OPD Investigator Supervisor has reviewed and concurs with request  
(Attach documentation or signature)

II. Have you completed and attached the Investigative Request?

☐ Yes

\_\_\_\_\_  
Requesting Attorney Signature

\_\_\_\_\_  
Date

Please be advised that a ***Memorandum of Understanding, Investigator*** must be completed prior to beginning work on this case.

**INVESTIGATOR:** Immediately contact the referring attorney at the first indication that additional time is necessary to complete the investigation! If costs are anticipated to exceed the pre-approved amount, the task must be resubmitted for approval of a supplemental amount on the approved form prior to incurring any additional costs. Justification must be provided regarding the specifics of what additional time spent on the case will entail. **Post-approval of costs will not be granted except in extraordinary circumstances.**

The Requesting Attorney must complete and forward this form to the appropriate person for approval (see above).

\_\_\_\_\_  
Authorized Signature

☐ Approve ☐ Deny

\_\_\_\_\_  
Date

Regional Deputy Public Defenders: **All requests, regardless of the amount requested, are to be submitted to the Central Office for approval.** The Chief Public Defender will review FTE attorney requests. The Contract Manager will review contract attorney requests.

**For Central Office Use Only—Non-Conflict Requests**

☐ Approve ☐ Deny

\_\_\_\_\_  
Contract Manager/Chief Public Defender

\_\_\_\_\_  
Date

**Attachment D**  
State of Montana  
Office of the State Public Defender  
**SUPPLEMENTAL REQUEST**  
**FOR PRE-APPROVAL OF CLIENT COSTS**

*The assigned attorney is responsible for keeping the pre-approved costs within the pre-approved amount. If costs are anticipated to exceed the pre-approved amount, the task must be resubmitted for approval of a supplemental amount on this form prior to incurring any additional costs. **It is imperative for the requesting attorney to monitor costs expended to date so as not to delay the supplemental process.***

\_\_\_\_\_  
Date

\_\_\_\_\_  
Task Provider's Name

\_\_\_\_\_  
Requesting Attorney's Name

\_\_\_\_\_  
Case Name

\_\_\_\_\_  
OPD Case ID Number

Original Pre-Approved Amount (attach copy of pre-approval form) \_\_\_\_\_

Amount of Supplemental Request for Additional Work \_\_\_\_\_

Amount of Supplemental Request for Travel \_\_\_\_\_

*Note: travel reimbursement is paid at the **current state rate** for mileage, lodging and per diem.*

**Revised Total Amount Requested for Pre-Approval** \_\_\_\_\_

Justification for supplemental request: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Requesting Attorney Signature

\_\_\_\_\_  
Date

The Requesting Attorney must complete and forward this form to the appropriate person for approval:

- The Regional Deputy Public Defender in cases assigned to an FTE, or a non-conflict case assigned to a contract attorney
- The Training Coordinator in cases assigned to conflict attorneys (*Eric Olson, 610 N. Woody, Missoula MT 59802*)
- The Chief Appellate Defender in appellate cases (*Jim Wheelis, P.O. Box 200145, Helena MT 59620*)

\_\_\_\_\_  
Authorized Signature    ☐ Approve    ☐ Deny

\_\_\_\_\_  
Date

***NOTE:*** Regional Deputy Public Defenders must submit all requests to the Central Office for approval **regardless of the amount requested**. The Chief Public Defender will review FTE attorney requests. The Contract Manager will review contract attorney requests.

**For Central Office Use Only (Non-Conflict Cases)**

☐ Approve    ☐ Deny

\_\_\_\_\_  
Contract Manager/Chief Public Defender

\_\_\_\_\_  
Date



**Attachment E**  
State of Montana  
Office of the State Public Defender

# SUPPLEMENTAL REQUEST

## FOR PRE-APPROVAL OF CLIENT COSTS MENTAL HEALTH PROFESSIONAL

*The assigned attorney is responsible for keeping the pre-approved costs within the pre-approved amount. If costs are anticipated to exceed the pre-approved amount, the task must be resubmitted for approval of a supplemental amount on this form prior to incurring any additional costs. **It is imperative for the requesting attorney to monitor costs expended to date so as not to delay the supplemental process.***

\_\_\_\_\_  
Date

\_\_\_\_\_  
Task Provider's Name

\_\_\_\_\_  
Requesting Attorney's Name

\_\_\_\_\_  
Case Name

\_\_\_\_\_  
OPD Case ID Number

Original Pre-Approved Amount (attach copy of pre-approval form) \_\_\_\_\_

Amount of Supplemental Request for ☐ Evaluation **or** ☐ Testimony (check one) \_\_\_\_\_

Amount of Supplemental Request for Travel \_\_\_\_\_

*Note: travel reimbursement is paid at the **current state rate** for mileage, lodging and per diem.*

Revised Total Supplemental Amount Requested \_\_\_\_\_

Justification for supplemental request, including travel: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Have you consulted with the OPD Mental Health Consultant regarding this request?

- ☐ Yes      Date and time of consultation \_\_\_\_\_
- ☐ OPD MH Consultant has Reviewed and Concurs with request  
(attach documentation or signature)

\_\_\_\_\_  
Requesting Attorney Signature

\_\_\_\_\_  
Date

The Requesting Attorney must complete and forward this form to the appropriate person for approval:

- The Regional Deputy Public Defender in cases assigned to an FTE, or a non-conflict case assigned to a contract attorney
- The Training Coordinator in cases assigned to conflict attorneys  
(Eric Olson, 610 N. Woody, Missoula MT 59802)

\_\_\_\_\_  
Authorized Signature    ☐ Approve    ☐ Deny

\_\_\_\_\_  
Date

***NOTE: Regional Deputy Public Defenders must submit all requests to the Central Office for approval **regardless of the amount requested.*****

*The Chief Public Defender will review FTE attorney requests. The Contract Manager will review contract attorney requests.*

**For Central Office Use Only—Non-Conflict Cases**

☐ Approve    ☐ Deny

\_\_\_\_\_  
Contract Manager/Chief Public Defender

\_\_\_\_\_  
Date

**Attachment F**

State of Montana

Office of the State Public Defender

**INVESTIGATOR SUPPLEMENTAL REQUEST  
FOR PRE-APPROVAL OF CLIENT COSTS**

*The assigned attorney is responsible for keeping the pre-approved costs within the pre-approved amount. If costs are anticipated to exceed the pre-approved amount, the task must be resubmitted for approval of a supplemental amount on this form prior to incurring any additional costs. **It is imperative for the requesting attorney to monitor costs expended to date so as not to delay the supplemental process.***

\_\_\_\_\_  
Date

\_\_\_\_\_  
Task Provider's Name

\_\_\_\_\_  
Requesting Attorney's Name

\_\_\_\_\_  
Case Name

\_\_\_\_\_  
OPD Case ID Number

Original Pre-Approved Amount (attach copy of pre-approval form) \_\_\_\_\_

Amount of Supplemental Request for Additional Work \_\_\_\_\_

Amount of Supplemental Request for Travel \_\_\_\_\_

*Note: travel reimbursement is paid at the **current state rate** for mileage, lodging and per diem.*

**Revised Total Amount Requested for Pre-Approval** \_\_\_\_\_

Justification for supplemental request: \_\_\_\_\_  
\_\_\_\_\_

Have you consulted with the OPD Investigator Supervisor regarding this request?

☐ Yes      Date and time of consultation \_\_\_\_\_

☐ OPD Investigator Supervisor has reviewed and concurs with request  
(Attach documentation or signature)

\_\_\_\_\_  
Requesting Attorney Signature

\_\_\_\_\_  
Date

The Requesting Attorney must complete and forward this form to the appropriate person for approval:

- The Regional Deputy Public Defender in cases assigned to an FTE, or a non-conflict case assigned to a contract attorney
- The Training Coordinator in cases assigned to conflict attorneys (*Eric Olson, 610 N. Woody, Missoula MT 59802*)

\_\_\_\_\_  
Authorized Signature    ☐ Approve    ☐ Deny

\_\_\_\_\_  
Date

**NOTE:** Regional Deputy Public Defenders must submit all requests to the Central Office for approval regardless of the amount requested. The Chief Public Defender will review FTE attorney requests. The Contract Manager will review contract attorney requests.

**For Central Office Use Only (Non-Conflict Cases)**

☐ Approve    ☐ Deny

\_\_\_\_\_  
Contract Manager/Chief Public Defender

\_\_\_\_\_  
Date